JOHN J. SANSONE, County Counsel (State Bar No. 103060)
County of San Diego
By MORRIS G. HILL, Senior Deputy (State Bar No. 97621)
1600 Pacific Highway, Room 355
San Diego, California 92101-2469
Telephone: (619) 531-4877; Fax: (619) 531-6005
E-mail: morris.hill@sdcounty.ca.gov

Attorneys for Defendant Bonnie Dumanis

IN THE UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

NATHAN KEVIN TURNER, Plaintiff, v. BONNIE DUMANIS, District Attorney of the County of San Diego; SAN DIEGO POLICE DEPT.; DETECTIVE A. FRAGOSO of the San Diego County Police Dept.; DETECTIVE J. DREIS of the San Diego County Police Dept.; SAN DIEGO CRIME LAB; and THE ATTORNEY GENERAL OF STATE OF CALIF., Defendants.	No. 08-cv-0360-W(RBB) NOTICE OF LODGMENT Date: July 28, 2008 Dept.: 7 - Courtroom of the Honorable Thomas Whelan Trial Date: None **[NO ORAL ARGUMENT PURSUANT TO LOCAL RULE 7.1d1]**

Defendant Bonnie Dumanis hereby lodges the following exhibit in support of her Motion to Dismiss Plaintiff's Complaint for Failure to State a Constitutional Claim, as follows:

Exhibit "A" July 28, 2000 article from the New York Times "San Diego District Attorney Offering Free DNA Testing."

DATED: June 20, 2008 JOHN J. SANSONE, County Counsel

By: s/ MORRIS G. HILL, Senior Deputy
Attorneys for Defendant Bonnie Dumanis
E-mail: morris.hill@sdcounty.ca.gov

The New York Times
nytimes.com

July 28, 2000

San Diego District Attorney Offering Free DNA Testing

By JAMES STERNGOLD

The San Diego County district attorney has begun a policy of offering free DNA testing to prison inmates who say they were wrongly convicted and would be exonerated by this increasingly common scientific method.

This appears to be one of the first instances in the country where a district attorney has not just waited to be petitioned, but has taken the initiative in searching for cases where DNA tests had not been performed originally and where it could change a verdict, or possibly a life.

Several other counties in Southern California reported they were considering adopting similar policies, and a bill working its way through the California Legislature would mandate such reviews and testing statewide.

George Clarke, a deputy district attorney in San Diego County, said his office was focusing on about 560 cases where guilty verdicts were rendered before 1992, when DNA testing began there. He said that two law students were conducting the review and that out of 40 cases already examined, one had been found that would qualify for the free testing.

He added that not that many cases appeared likely to meet the criteria. The cases must involve people still in prison, the inmates must have consistently maintained innocence of their crimes and the DNA evidence must still exist.

"We decided we were not to wait for them to come around to us," said Mr. Clarke. "We decided we were going to take a proactive approach."

He added that the policy would apply largely to sexual assault cases, where some biological evidence frequently exists, but would also apply to some homicides.

The tests cost $3,000 to $5,000 each, but Mr. Clarke and other prosecutors in the region said cost would not be a factor because of the importance of the effort to clear those wrongfully convicted.

The San Diego district attorney, Paul Pfingst, and his office have been under fire recently for several cases in which there have been highly publicized accusations of prosecutorial misconduct.

But Mr. Clarke and others in the office said the accusations had not been a factor in the adoption of the policy.

EXHIBIT A

"I think this is a legitimate effort and it's a move in the right direction," said Steven Carroll, the chief public defender in San Diego. "Still, the bigger problem we have is you still have a system that wrongfully convicts people, and those problems have to be looked at too."

Randy Tagami, an assistant district attorney in adjacent Riverside County, said his office was also considering such a program, partly because of a case this year in which a man convicted in a vicious rape and robbery case several years ago had consistently maintained his innocence.

The man had been positively identified by the victim, Mr. Tagami said, and there was other corroborating evidence, but when the DNA test was finally conducted he was exonerated.

"This is easier said than done because there are not that many cases where the evidence is still there," Mr. Tagami said. "But this won't be an issue in a few years. The testing will be done all the time. The expense won't be an issue."

The new system requires that the inmates must agree to be tested. Several prosecutors said that in some instances the inmates had refused because their DNA "fingerprint" might then be used to convict them in other crimes in which their guilt had not been previously established.

Some lawyers argued that while the adoption of such testing policies could prove a boon for some inmates, the policy merely exposed persistent flaws in the prosecutorial system, and that those broader issues should also be addressed.

"What this reveals with unusual clarity is flaws in our criminal justice system that allows innocent people to be convicted because of all sorts of problems," said Michael Judge, the chief public defender in Los Angeles County, which has yet to enact such a proactive DNA testing program. "That's the story that hasn't been told yet. The question is what broader reforms should be adopted."

Jan Stiglitz, a professor at the California Western School of Law, in San Diego, is the co-director of the Innocence Project there, which supports the DNA testing policy.

He said that one person reviewing old cases was a student of his, and that initially the effort appeared to have been overly broad and too time-consuming. At the students' insistence, he said, it had been narrowed and appeared to be effective in finding cases in which the testing would help, making the program a powerful tool.

"We absolutely support this and believe it is the right step," Professor Stiglitz said.

Tests Sponsored in Georgia Case

(By The New York Times), ATLANTA, July 27 -- Seeking to learn if an innocent man was put to death, The Boston Globe and three other news organizations said this week that they would underwrite new DNA tests on evidence from a 1981 Georgia murder case.

The man, Ellis Wayne Felker, was executed in 1996 for the rape and murder of a college student, Evelyn Joy Ludlam, 19. If DNA tests prove his innocence, it would be the first time the technology exonerated an inmate who had been put to death.

A Georgia judge cleared the way for the tests this month when he agreed to turn over evidence from the

EXHIBIT A

case to The Globe. The cost of the tests has not been determined.

Copyright 2008 The New York Times Company | Home | Privacy Policy | Search | Corrections | XML | Help | Con

EXHIBIT A